

OFFICIAL COPY

Fresno, California

April 20, 2004

The City Council met in regular session at the hour of 8:31 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
Andy Souza, Assistant City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

City Manager Hobbs gave the invocation, and President Castillo led the Pledge of Allegiance to the Flag.

RECOGNITION AWARDS TO DISTRICT 4 STUDENTS - PRESIDENT CASTILLO

PROCLAMATION OF NATIONAL CRIME VICTIMS' RIGHTS WEEK - CITY MANAGER HOBBS

PROCLAMATION OF NATIONAL DONATE LIFE MONTH - CITY COUNCIL

1. PROCLAMATION OF YVONNE BREWER DAY

PROCLAMATION OF ARBOR DAY - COUNCILMEMBER STERLING

PROCLAMATION OF ARMENIAN GENOCIDE REMEMBRANCE DAY - MAYOR AND CITY COUNCIL

PROCLAMATION OF SELMA CHAPTER OF TRIPLE X FRATERNITY DAY - COUNCILMEMBER BOYAJIAN

The above awards and proclamations were read and presented.

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APPROVE MINUTES:

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of April 13, 2004, approved, as corrected, on Page 140-123, Item 3-A, 2nd paragraph, second to the last sentence, changing the word *referral* to *deferral*.

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COUNCILMEMBER REPORTS AND COMMENTS:

(1) FY 2005 BUDGET AND REQUEST TO COUNCIL TO SUBMIT REQUESTS ON USE OF HOUSING FUNDS TO COUNCIL ANALYST SPARKS, AND (2) COMMENDATION/THANK YOU TO ASSEMBLY MEMBER REYES, COUNCILMEMBERS DAGES AND STERLING, AND THE CITY OF FRESNO FOR DISTRICT ONE CLEAN UP PROJECTS - COUNCILMEMBER BOYAJIAN

Request and commendations made.

STATE WORKERS COMPENSATION LEGISLATION - COUNCILMEMBER DUNCAN

(2 - 0) Councilmember Duncan thanked Senator Chuck Poochigian, architect of the bill, for his tremendous role in changing the system and stated it would be historic in its impact all over the state.

REQUEST TO STAFF TO SEND A FORMAL LETTER TO THE FRESNO GRIZZLIES RELATIVE TO THEIR POOR FOOD SERVICE AND WHAT THEY PLAN TO DO TO IMPROVE THE QUALITY AND SERVICE - COUNCILMEMBER DUNCAN

Request made with Councilmember Duncan stating if some kind of action is not taken to at least ask them what they plan to do people will not attend the games

COMMENDATION TO (1) OFFICER VIALVA FOR RESOLVING GANG PROBLEMS AT 7TH STREET AND BALCH AVENUE, AND (2) ASSEMBLY MEMBER REYES' OFFICE, COUNCILMEMBERS BOYAJIAN AND STERLING, AND EMPLOYEES JET LIM, HAROLD HUD AND CORNELL CONTRERAS FOR GRAFFITI CLEAN UP IN SOUTHEAST FRESNO - COUNCILMEMBER DAGES

Commendations made.

COMMENDATION TO COUNCIL COLLEAGUES, ASSEMBLY MEMBER SARAH REYES, AND THE COMMUNITY FOR CLEAN UP AND TREE PLANTING, AND LIZ GOMEZ OF PG&E FOR HER TRANSLATION SERVICES - COUNCILMEMBER STERLING

Commendation made.

COMMENDATION TO POLICE CAPT. GREG GARDNER AND THE FIRE DEPARTMENT FOR THEIR PARTICIPATION IN THE COMMUNITY CLEAN-UP EVENT AND KING SOLOMAN BAPTIST CHURCH'S FIRST BLOCK PARTY - COUNCILMEMBER STERLING

Commendation made.

MEXICANA AIRLINES - PRESIDENT CASTILLO

President Castillo stated he saw Mexicana's interest as a starting point for great things to come and he wanted to see what the focus was of staff's forthcoming report and what the city plans to do if any barriers are identified, noted his biggest fear was the city not showing the airline that it is willing to work with them in an expedient way and they go somewhere else, and stated he did not want to lose this wonderful opportunity and he looked forward to the issue being scheduled on the agenda. City Manager Hobbs stated there was a legitimate ag issue that would be paid attention to, advised if everything does come together it would represent a potential 10% increase in passenger traffic, and added staff was very attentive and respectful to Mexicana approaching the city and they would very carefully analyze what this may represent in the way of an opportunity.

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APPROVE AGENDA:

(1-U) APPROVE AMENDMENT TO SALES TAX IMPOSITION ORDINANCE PURSUANT TO THE AGREEMENT WITH FRESNO COUNTY

1. BILL (FOR INTRODUCTION) - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO LOCAL SALES AND USE TAXES

City Clerk Klisch advised the above ordinance was for introduction and adoption. So noted.

(2:30 P.M.) TEFRA HEARING REGARDING COMMUNITY MEDICAL CENTERS CEDAR VISTA BEHAVIORAL CENTER

1. RESOLUTION - APPROVING THE ISSUANCE OF CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY REVENUE NOTES (COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA) IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,800,000 FOR THE PURPOSE OF FINANCING THE ACQUISITION, RENOVATION AND EQUIPPING OF A HEALTH CARE FACILITY AND CERTAIN OTHER MATTERS RELATING THERETO FOR THE BENEFIT OF COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA, FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER

Councilmember Calhoun advised he would be recusing himself from the proceedings at the scheduled time due a conflict of interest.

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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CONSIDER CONSENT CALENDAR:

(1-F) RESOLUTION - 73RD AMENDMENT TO AAR 2003-209 APPROPRIATING \$450,000 FOR THE POLICE DEPARTMENT'S CONTRACT LAW ENFORCEMENT SERVICES (CLES) PROGRAM (HIRING OF OFF-DUTY POLICE OR CSOs FOR SECURITY DUTY AT GENERAL PUBLIC OR PRIVATE EVENTS)

Councilmember Calhoun noted the contracting had increased almost 100% and he wanted to make sure officers were not being worn out, and stated if the request for service continues to jump he would raise issues. The item was later pulled for discussion/action at 2:00 p.m.

Gloria Torrez stated consent items were not routine and needed be heard and acted upon separately; relative to item **1-G** questioned why the retrofitting devices were being purchased when it was said last month that FAX would use the zero two diesel fuel which a mechanic said was a lot cleaner than natural gas; and relative to **1-H** questioned the numbers and spoke in opposition to a 5-year contract due to the natural gas and further elaborated on her concerns and opposition to natural gas. President Castillo requested a tray memo on Ms. Torrez' comments that it takes 1½ hours to fill a bus and that 40% of the natural gas buses were always in the shop.

Barbara Hunt, 2475 S. Walnut, agreed consent items needed to be discussed separately; relative to **1-B** stated an irregularity could not be waived; relative to **1-D** stated there should be no special treatment; relative to **1-E** stated Clovis should contribute financially; spoke in support of item **1-F**; relative to **1-N** stated the land around the airport needed to be analyzed for contamination; and spoke in opposition to item **1-O** stating it was illegal.

ADOPT CONSENT CALENDAR:

(1-A) AWARD A CONTRACT TO WESCO INFRASTRUCTURE TECHNOLOGIES OF TORRANCE, CA, FOR CONSTRUCTION OF SEWER REHABILITATION IN BARSTOW AVENUE, FIRST STREET AND SHAW AVENUE

(1-D) RESOLUTION NO. 2004-135 - 79TH AMENDMENT TO AAR 2003-209 ADJUSTING REVENUES AND APPROPRIATIONS WITHIN THE WATER CONNECTION CHARGE FUND BASED ON INCREASED DEVELOPMENT ACTIVITY

(1-E) APPROVE A CONTRACT WITH SPINIELLO COMPANIES OF FAIRFIELD, NEW JERSEY, SUBJECT TO CITY ATTORNEY APPROVAL AS TO FORM, IN THE AMOUNT OF \$1,199,490 FOR REPAIR OF STRUCTURAL DAMAGE TO THE HEADWORKS FLOW SPLIT STRUCTURE AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF), AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE CONTACT ON BEHALF OF THE CITY

(1-G) RESOLUTION NO. 2004-136 - AUTHORIZING THE PURCHASE OF SPECIFIED CLEAIRE LONGVIEW AFTER EXHAUST TREATMENT DEVICES FOR FAX DIESEL BUSES WITHOUT ADVERTISED COMPETITIVE BIDDING, IN ACCORDANCE WITH ADMINISTRATIVE ORDER 3-3, SOLE-SOURCE PURCHASES OVER THE FORMAL BID LIMIT AT A COST NOT TO EXCEED \$840,000

(1-H) AUTHORIZE THE TRANSIT GENERAL MANAGER TO ENTER INTO AGREEMENTS WITH THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT TO RECEIVE UP TO \$897,631 THAT WILL BE USED TO MITIGATE THE COST OF THREE CNG-POWERED TROLLEYS AND RETROFIT 56 EXISTING DIESEL BUSES WITH AFTER EXHAUST TREATMENT DEVICES
1. RESOLUTION NO. 2004-137 - 81ST AMENDMENT TO AAR 2003-209 APPROPRIATING \$897,600 OF INCENTIVE FUNDING FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT HEAVY-DUTY INCENTIVE PROGRAM

(1-I) APPROVE U.S. POSTAL SERVICE LEASE OF SPACE NO. 1B IN THE CARGO BUILDING AT FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI), AND AUTHORIZE THE INTERIM DIRECTOR OF TRANSPORTATION TO EXECUTE THE ASSOCIATED DOCUMENTS ON BEHALF OF THE CITY

Councilmember Calhoun noted there were a number of lease issues on the agenda and he wanted a report from staff on how lease rents are calculated.

(1-J) APPROVE A ONE-YEAR EXTENSION OF FEDERAL EXPRESS CORPORATION'S LEASE OF OFFICE SPACE AT FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI), AND AUTHORIZE THE INTERIM DIRECTOR OF TRANSPORTATION TO EXECUTE THE ASSOCIATED DOCUMENTS ON BEHALF OF THE CITY

(1-K) APPROVE A ONE-YEAR EXTENSION OF UNITED PARCEL SERVICES OF AMERICA, INC., d.b.a. UPS, FOR A CARGO LEASE AT FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI), AND AUTHORIZE THE INTERIM DIRECTOR OF TRANSPORTATION

(1-L) APPROVE ASSIGNMENT OF ABX AIR, INC.'S LEASE OF OFFICE AND RAMP SPACE AT FRESNO YOSEMITE INTERNATIONAL AIRPORT TO AIRBORNE EXPRESS INC.; APPROVE A THIRTEEN MONTH EXTENSION OF THE LEASE-AS-ASSIGNED; AND AUTHORIZE THE INTERIM DIRECTOR OF TRANSPORTATION TO EXECUTE THE ASSOCIATED DOCUMENTS ON BEHALF OF THE CITY

(1-M) APPROVE THE PROPOSED LEASE ADDENDUM NO. 2 TO THE LEASE AND CONCESSION AGREEMENT WITH SHAREE CURTICE, d.b.a., THE RUB CLUB, TO CONDUCT A CHAIR MASSAGE BUSINESS AT FRESNO YOSEMITE INTERNATIONAL AIRPORT (FYI), AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE THE SAME ON BEHALF OF THE CITY

(1-N) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH THE TWINING LABORATORIES, INC., AND THE CITY OF FRESNO FOR OWNER'S QUALITY ASSURANCE AND ACCEPTANCE TESTING FOR THE FRESNO YOSEMITE INTERNATIONAL AIRPORT, AIR CARGO PARK, AIRSIDE DEVELOPMENT, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR AND INTERIM DIRECTOR OF TRANSPORTATION TO SIGN THE AGREEMENT ON BEHALF OF THE CITY OF FRESNO

Councilmember Calhoun noted the staff report stated firms were interviewed and advised he would be following up on the number of firms that are interviewed.

(1-O) AUTHORIZE THE INTERIM DIRECTOR OF TRANSPORTATION (DIRECTOR) TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR A LAND SWAP WITH CALTRANS AT CHANDLER AIRPORT (AN EASEMENT ALONG W. WHITESBRIDGE AVENUE); AUTHORIZE THE CITY'S SIMULTANEOUS PURCHASE FROM CALTRANS OF THREE PARCELS ADJACENT TO THE AIRPORT'S NORTHWESTERLY RUNWAY PROTECTION ZONE, WITH A NET PAYMENT TO CALTRANS OF \$12,200 PLUS ANY RECORDING FEES AND/OR DOCUMENTARY TRANSFER TAXES; AND AUTHORIZE THE DIRECTOR TO EXECUTE THE ASSOCIATED DOCUMENTS AND COMPLETE THE TRANSACTION ON BEHALF OF THE CITY, ALL SUBJECT TO CITY ATTORNEY APPROVAL

(1-P) APPROVE THE SALE OF EXCESS PROPERTY ACQUIRED FOR THE PROMENADE PARKING LOT BETWEEN THE BURLINGTON-NORTHERN SANTA FE RAILROAD TRACKS AND THE "Q-P" ALLEY FROM VENTURA TO TULARE STREETS THAT IS NOT NEEDED FOR THE PROJECT TO WELL BEING, LLC, STATE CENTER PROPERTIES, LLC, AND TIMOTHY W. WOLFE, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR, OR ASSISTANT DIRECTOR, TO EXECUTE ALL APPROPRIATE DOCUMENTS TO COMPLETE THE TRANSACTIONS

(1-Q) RESOLUTION NO. 2004-138 - ORDERING THE SUMMARY VACATION OF A PORTION OF A PUBLIC UTILITY EASEMENT ON THE NORTHWEST CORNER OF HERNDON AND JACKSON AVENUES

(1-R) APPROVE THE TRANSFER OF \$45,700 FROM MISCELLANEOUS REVENUE TO THE ACCOUNT FOR THE MAINTENANCE AND SALE OF SURPLUS REAL PROPERTY

1. RESOLUTION NO. 2004-139 - APPROVING THE REALLOCATION OF \$45,700 FROM CONTINGENCY FOR THE PURCHASE OF REAL PROPERTY, WEED ABATEMENT AND OTHER MAINTENANCE ITEMS

(1-S) APPROVE AN AGREEMENT WITH THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT FOR REIMBURSEMENT OF INFRASTRUCTURE IMPROVEMENTS CONSTRUCTED BY THE CITY AT ITS STORM WATER RETENTION BASIN 11-4 LOCATED ON THE NORTH SIDE OF E. THOMAS BETWEEN N. MILLBROOK AND N. EIGHTH STREET

1. RESOLUTION NO. 2004-140 - AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT

(1-T) RESOLUTION NO. 2004-141 - APPROVING THE FINAL MAP OF TRACT NO. 5173, PROPERTY LOCATED ON THE SOUTH SIDE OF E. NEES BETWEEN N. MAPLE AND N. CHESTNUT AVENUES IN COUNCIL DISTRICT 6, AND ACCEPTING THE DEDICATED PUBLIC USES THEREIN

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE

2. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-U) APPROVE AMENDMENT TO SALES TAX IMPOSITION ORDINANCE PURSUANT TO THE AGREEMENT WITH FRESNO COUNTY

1. BILL NO. B-41 - ORDINANCE NO. 2004-42 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO LOCAL SALES AND USE TAXES

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

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(3-A) COUNCIL DISCUSSION AND DIRECTION REGARDING SETTING WORKSHOPS AND BUDGET HEARINGS DURING BUDGET SEASON

Councilmember Calhoun stated his report to Council was self-explanatory and clarified this was not intended to be critical but he felt staff and Council needed to be cognizant of the planning process for the budget and encouraged staff and Council to not schedule a lot of timely items/workshops during budget hearings. City Manager Hobbs stated comments were helpful and staff would assist in any way. Councilmember Calhoun also stated he wanted the fee issue to be discussed at the beginning of the budget and not at the end like last year.

Barbara Hunt, 2475 S. Walnut, spoke to the issue and need for budget hearings to be held early in the day when Council is "fresh".

Councilmember Boyajian stated last year's budget was bad because Council received the budget document later than usual, questioned when Council would receive the budget this year, and added he also hoped there would not be a lot of workshops scheduled. Mr. Hobbs advised the anticipated date to present the budget was May 11th. Councilmember Sterling concurred with comments made but advised she would be bringing forth an item at the end of May which would include funding and would require about one hour.

President Castillo spoke to the issue of Council budget committees and stated he would not look forward to establishing one this year as it gave the impression of back room deals being made, and requested the budget be presented to Council as early as possible noting the Mayor stated he would try to get it to Council by May 1st and suggested a compromise between May 1st and May 11th. Councilmember Duncan stated he also would not support establishing a budget committee stating council members were fully capable of evaluating the budget. There was no further discussion.

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(9:55 P.M.) PROCLAMATION OF NATIONAL COMMUNITY COLLEGE MONTH - COUNCILMEMBER DUNCAN

Read and presented.

143-129

4/20/04

RECESS - 10:06 A.M. - 10:15 A.M.

(10:00 A.M.) PRESENTATION OF EMPLOYEE SERVICE AWARDS

Resolutions of Commendation were presented to employees with 10, 15, 20, 25, 30 and 35 years of city service and a reception was held immediately following.

A visiting Rotary Program study exchange group from Madras, India, was recognized and welcomed.

(10:45 A.M.) DIRECT STAFF TO WORK WITH THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THE FEDERAL RAILROAD ADMINISTRATION TO CONDUCT THE PRELIMINARY BACKGROUND STUDIES AND REVIEW THAT WHICH IS NECESSARY TO ESTABLISH QUIET ZONES IN THE CITY OF FRESNO - COUNCILMEMBERS BOYAJIAN AND STERLING

Councilmember Boyajian stated there was a need to try to alleviate the train noise levels that people have to live with; spoke to jurisdictional issues, federal regulations on horns **(3 - 0)**, the quiet zone program, the need for the city to get started and locate funding sources to improve railroad crossings to meet standards for quiet zones, and the need to create safe neighborhoods; and thanked the PUC and the federal government for their cooperation in getting the initial things together and made a motion to direct staff as outlined above, which motion was seconded and later acted upon.

Councilmember Calhoun stated the motion needed to reflect that the discretionary spending the city would try to attain and use would allow crossing improvements to be both safety related and quiet zone oriented, with Councilmember Boyajian stating it was his intent to do both as they went hand in hand and added the city could not get quiet zones without safer crossings.

District 2 Council Assistant Kloose spoke to the rule change that needed to take place and stated Council needed to send a message that the city was interested in Ms. Lynch doing a rule change at the PUC that would allow for the discretionary funding to be used for both safety improvements at crossings and as well as enhancements for the quiet zone to help the city qualify. Councilmember Boyajian reiterated his intent was to do both as they went hand in hand and stated it was all incorporated in his motion. Councilmember Sterling added quiet zones are not automatically granted and spoke to what the city has to do, pointed out some crossings may be so dangerous that it will take time to get them up to standards and until that is done the city will not be able to participate in the quiet zone program, clarified the motion would direct staff to survey the crossings and with help from the PUC and federal government see what it will take to comply and qualify for a quiet zone, and stated the fact that Ms. Lynch came to Fresno and Councilmembers Calhoun and Boyajian brought this issue here is a testament that Fresno is addressing some of its major issues in the area of rail safety.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who spoke to the issue and expressed various concerns; and Tom Bailey, 1713 Tulare, Suite 140, President of Fresno Area Residents for Rail Consolidation, who spoke in support of the issue.

Discussion continued on various issues including the possibility of partnering with major entities such as Fresno County and Community Hospital, if the direction was clear for staff, if staff would look at obtaining grants, staff's position on the issue, taking care of safety issues first and then quiet zone enhancements, what comments were submitted, if there was still an opportunity to comment and get money from the federal government, need to construct over/under crossings, and comments not helping and need for resources and a commitment during budget, with Assistant Public Works Director Kirn, City Attorney Montoy and City Manager Hobbs responding to questions and comments throughout.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, **RESOLVED**, staff directed to work with the California Public Utilities Commission and the Federal Railroad Administration to conduct the preliminary background studies and review that which is necessary to establish quiet zones in the city of Fresno, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes	:	None
Absent	:	None

143-130

4/20/04

(11:00 A.M.) CONTINUED HEARING ON PLAN AMENDMENT NO. A-03-11, REZONE APPLICATION NO. R-03-57, AND ENVIRONMENTAL FINDINGS, FILED BY JOHN ALLEN, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF N. FIGARDEN DRIVE AND N. BRAWLEY AVENUE IN COUNCIL DISTRICT 2 (CONTINUE TO APRIL 27, 2004, AT 10:15 A.M.)

Continued as noted.

(3-B) DIRECT CITY MANAGER TO DEVELOP A FIVE-YEAR PLAN TO CREATE SENIOR CITIZEN CENTERS THROUGHOUT THE CITY WITH POTENTIAL FUNDING SOURCES - ACTING PRESIDENT PEREA

Acting President Perea reviewed the issue, stated although the city council has supported services and programs that support seniors the one thing the city has not done was provide centers throughout and stressed the need was there, stated he felt it was time to look at how to build centers throughout the city that are accessible and easy for seniors to get to, and advised his intent was to see if the will was there to move forward and give direction to look at what options were out there, including building on city parks, and made a motion to approve his direction, which motion was seconded and later acted upon.

Barbara Hunt, 2475 S. Walnut, spoke in support of the issue.

Lengthy discussion ensued. Councilmember Dages stated he had concerns because the FMAAA center on Dakota Avenue (the old Sierra Hospital) had not even been completed yet; stated he would like to see that center and the Manchester center combined; noted FMAAA was the agency that handles senior centers and questioned why the city could not include them and work with them; and expressed funding concerns with this issue and the FMAAA center and urged that center be finished before thinking about other locations. As the city representative on the FMAAA Councilmember Sterling advised a meeting would be held this week and stated concerns expressed could be presented and a progress report on the unfinished center could be asked for, acknowledged times were tough financially and stated creative thinking would have to occur on how to accommodate our seniors, and invited Councilmember Perea to the meeting stating it would be advantageous. Councilmember Boyajian stated he also hoped the Dakota and Manchester centers could be combined; spoke to the amount of money the city has already contributed to the Dakota center; spoke briefly to the need to consider combining seniors and young adults who say there is nothing to do; questioned if the plan was to look at buildings already in place, if the plan was to combine the Manchester and Dakota centers, if Acting President Perea felt the two centers needed to be combined, and if the five-year plan included finishing the Dakota center **(4 - 0)**, with Acting President Perea responding. Councilmember Duncan stated he felt this item was several years premature; stated the fiscal reality needed to be dealt with along with improvements to the transportation system; and stated this was a bad time for new initiatives and way premature to spend staff resources and stated the center that was started needed to be finished first.

Acting President Perea stated it was not premature to plan for the future; clarified if Council wanted the Dakota center finished they needed to ante up \$10 million; stated the Mayor was aware of the fiscal constraints but he was optimistic about the future; pointed out Council last year spent \$724 million and stated the reality was the money was there and it was just a matter of priorities; and urged Council's support clarifying he was talking about smaller centers like the one at Manchester.

Councilmember Calhoun stated the Dakota facility was going to be a joint endeavor and emphasized this discussion and debate had already taken place and Council made a policy decision to support the central facility as best as it could; stated he hoped the Mayor's upcoming budget would continue to support the Dakota center which was going to be a state of the art center; stated to start spreading centers around districts was "unadulterated pork" and elaborated; and stated this was the wrong time, the wrong path to go, and staff already had their hands full.

President Castillo expressed his concern with the Dakota center not being opened and stressed it should have been opened three years ago; stated seniors were a rare commodity who did not have the luxury of waiting and he looked forward to the day when he could say Fresno did have centers throughout the city; and stressed something needed to be done about the Dakota center and elaborated. Councilmember Sterling advised a fire last year destroyed much of the Dakota facility and a lot needed to be done to get back on track, reiterated she would hopefully be able to get information and present it to Council at the next Council, and spoke to the Hinton and Ted C. Wills centers stating there were creative ways of accommodating seniors during these hard budget times.

Councilmember Duncan recommended Council not take any action until Councilmember Sterling gets information and reports

back on the status of existing centers. Councilmember Dages concurred and added FMAAA needed to be involved and requested they be invited to appear before Council to see if the \$10 million figure to finish the Dakota center and the quote of \$50,000 to \$100,000 to create new centers were accurate.

143-131

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On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the matter tabled two weeks to receive a report/information from Councilmember Sterling, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan
Noes : Perea, Sterling, Castillo
Absent : None

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UNSCHEDULED ORAL COMMUNICATIONS:

APPEARANCE BY BARBARA HUNT REGARDING THE BROWN ACT AND CONTINUED VIOLATION OF HER RIGHTS

Appearance made.

APPEARANCE BY DON GLASSON, 3739 W. BULLARD, RELATIVE TO THE INABILITY TO TAKE OUT PERMITS FOR PROPERTY LOCATED AT 3742 W. BULLARD

Appearance made with Assistant City Manager Souza stating he would look into the issue with the development department.

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LUNCH RECESS - 12:23 P.M. - 2:05 P.M.

(2:00 P.M.) CONTESTED CONSENT CALENDAR ITEMS:

(1-B) WAIVE A MINOR IRREGULARITY AND AWARD A CONTRACT FOR THE CONSTRUCTION OF THE CONVENTION CENTER PARKING STRUCTURE TO McCARTHY BUILDING COMPANIES, INC., OF ROSEVILLE, CA

Assistant City Manager Ruiz submitted written information and clarified issues relative to the revenue requirements for the parking structure bond payment, stated currently the current revenue does not meet that obligation however as continued downtown revitalization occurs staff believed the parking fund would continue to increase in its revenues and be able to continue to meet its obligation, advised staff may need to come back in the future asking Council to consider some rate adjustments to insure that the parking fund is able to meet all debt service obligations, and stated this was a good and important project for downtown and staff looked forward to its completion.

Upon question of Councilmember Dages, Assistant City Manager Souza stated contingency money not used would go towards paying down the debt payment/bonds and would be in addition to the normal payment. Councilmember Duncan thanked council for their support of the structure stating it was a critical piece for downtown, spoke briefly to the hard work it took to develop the parking fund from where it was in 2001 to a healthy vibrant revenue stream today and added as long as council keeps staff from "raiding" it to promote private enterprise he felt it would be in good shape in time to make the bond payments, and made a motion to approve staff's recommendation.

Mr. Ruiz and City Attorney Montoy responded to questions of Acting President Perea and Councilmember Boyajian relative to whether rates would have to be raised, if there was any problem with waiving the minor irregularity and why staff felt it was minor, if staff was comfortable that the contractor would get performance bonds, and if McCarthy Building Companies was a viable company.

On motion of Councilmember Duncan, seconded by President Castillo, duly carried, RESOLVED, the fact that McCarthy Building Companies, Inc., did not submit a commitment letter from a surety that a sub-contractor can provide a performance bond and a materials and labor bond waived as a minor irregularity, and a contract hereby awarded to McCarthy Building Companies, Inc., of Roseville, CA, in the amount of \$19,575,000 for the construction of the Convention Center parking structure, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

(1-C) AUTHORIZE THE SALE OF THE DWELLING AT 1229 N. LINDEN AVENUE TO ROBERT AND CHANTAL JESCHIEN FOR RELOCATION TO A VACANT LOT ON LA SALLE AVENUE

143-132

4/20/04

Councilmember Calhoun stated he originally opposed the funding for the parking lot as he felt it was an unwise precedent; noted the project was now in its final stages and he continues to have concerns stating \$230,000 was a lot of money for the city to subsidize; stated taxpayers should receive a return on their investment and he wanted people to pay to park on the lot; and questioned if it was permissible to add that provision, with City Attorney Montoy responding. A motion and second was made to approve staff's recommendation subject to the condition that the property will be a source of revenue.

Councilmember Boyajian expressed concern with the last minute condition; spoke in strong opposition to the motion; stressed the parking would generate revenues for Tower District merchants and the city of Fresno; and spoke at length to the need to support the district, which he noted has been recognized all over, and stated the Council that first approved the project understood the importance of helping the Tower District which in turn benefits the neighborhood and the city. Councilmember Sterling spoke in support of staff's recommendation and further clarified the project, stated the city would get a benefit and working together with people in the community would improve the quality of life in the Tower District, and stated the additional parking has been needed for years **(5 - 0)** and urged Council's support.

Councilmember Duncan stated he thought the motion was to just approve moving forward and look at possibly generating some income and he didn't realize it was a vast conspiracy to destroy and undermine the entire Tower District, stated it was a good parking lot and there was no question it would help the Tower District but he felt it was also appropriate to look at parking meters as that would give the city a chance to get back a little of the expense of developing the lot, and stated the motion made a great deal of sense and added if it was appropriate to charge for parking downtown it was appropriate to extend it to a publicly financed parking lot in the Tower District. Councilmember Dages questioned if charging fees for all city-owned lots and not this one would set precedence, with City Attorney Montoy stating it was a policy decision for Council, it was legally permissible to charge or not charge for public parking, and added this was similar to streets wherein meters are on some and not on others and parking is allowed on some and not on others.

Upon question of Acting President Perea, Ms. Montoy explained the motion, whereupon Acting President Perea stated he supported staff's recommendation and supported helping the Tower District; stated Council needed to figure out what more it could do to help the merchants other than just providing free parking as the Tower District was an area that needed it and was struggling; and stated if we truly are going to see downtown revitalization the Tower District has to flourish as well.

Councilmember Boyajian stated all the issues that were brought up had already been considered, clarified staff was working with property owners on a way to rationalize expenditures and were trying to minimize the city's costs, and presented questions relative to staff's work with property owners, if staff was comfortable with the issue and where it was going, if parking was needed in the district, and if the city would reap benefits with the project, with Assistant Public Works Director Kirn responding.

Councilmember Calhoun stated if the line of reasoning of some of his colleagues was followed they were saying "what's good for the Tower District is good for your districts" and other members should be coming to council and ask for some special favor to the tune of \$230,000 of taxpayer dollars; stressed this was basically giving taxpayer dollars to a private entity and there was no way the \$230,000 would ever be made up; noted the parking lot would mostly be used on Fridays and Saturdays; pointed out the city paid for the landscaped islands on Olive Avenue and emphasized the Tower District has had a lot of attention from the city and to argue otherwise was entirely incorrect; and stated the project was going to move forward and it was perfectly permissible to charge.

A motion of Councilmember Calhoun, seconded by Councilmember Duncan, to approve staff's recommendation subject to the condition that the property be a source of revenue for the city failed, by the following vote:

Ayes : Calhoun, Dages, Duncan
Noes : Boyajian, Perea, Sterling, Castillo
Absent : None

A motion and second was made to approve staff's recommendation as submitted. Councilmember Calhoun stressed that was entirely

inappropriate, stated he was tired of hearing comments that this Council did not care about the inner city, and added not a day goes by that Council does not support the inner city.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, an agreement with Dinuba House Movers in the amount of \$22,000 for relocation of the dwelling at 1229 N. Linden Avenue to a lot on La Salle Avenue hereby approved; the sale of the dwelling to Robert and Chantal Jeschien for \$4,000 hereby approved; and a cross access agreement for construction and use of shared parking lot with Gary Agbashian hereby approved, and the interim public works director authorized to execute all documents, by the following vote:

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Ayes : Boyajian, Perea, Sterling, Castillo
Noes : Calhoun, Dages, Duncan
Absent : None

(1-F) RESOLUTION NO. 2004-142 - 73RD AMENDMENT TO AAR 2003-209 APPROPRIATING \$450,000 FOR THE POLICE DEPARTMENT'S CONTRACT LAW ENFORCEMENT SERVICES (CLES) PROGRAM (HIRING OF OFF-DUTY POLICE OR CSOs FOR SECURITY DUTY AT GENERAL PUBLIC OR PRIVATE EVENTS)

Councilmember Dages noted the department is reimbursed for services and questioned why an additional \$450,000 was needed, with Chief Dyer, City Manager Hobbs and Assistant City Manager Souza explaining the process and clarifying issues. A motion and second was made to approve staff's recommendation.

Chief Dyer, City Attorney Montoy and Mr. Hobbs responded to questions/comments and/or clarified issues presented by of President Castillo at length relative to whether the department was providing too much service, number of hours officers serve off duty, liability issues, request for breakdown on where officers spend the majority of their time, if the issue of where officers should be working should be revisited, importance of officers being at peak performance while on official city duty, if officers are in uniform at events, prohibiting specific officers being requested/chosen, and concern with/opposition to officers serving private gated communities who can afford the service.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-142 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None

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(2:30 P.M.) TEFRA HEARING REGARDING COMMUNITY MEDICAL CENTER'S CEDAR VISTA BEHAVIORAL CENTER
1. RESOLUTION NO. 2004-143 - APPROVING THE ISSUANCE OF REVENUE NOTES BY THE CALIFORNIA STATEWIDE COMMUNITY DEVELOPMENT AUTHORITY (COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA), IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,800,000, FOR THE PURPOSE OF FINANCING THE ACQUISITION, RENOVATION AND EQUIPPING OF A HEALTH CARE FACILITY AND CERTAIN OTHER MATTERS RELATING THERETO FOR THE BENEFIT OF COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA, FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER (ACQUISITION OF CEDAR VISTA PSYCHIATRIC FACILITY)

President Castillo announced the time had arrived to consider the issue and opened the hearing. City Attorney Montoy and Councilmember Calhoun recused themselves from the proceedings due to a conflict of interest and left the meeting at 3:09 p.m.

Treasury Accountant Auditor Hardcastle reviewed the issue as contained in the staff report as submitted, recommended approval, and advised principals of the subject entities were present to answer any questions.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2004-143 hereby adopted, by the following vote:

Ayes : Boyajian, Dages, Duncan, Perea, Sterling, Castillo
Noes : None
Absent : None
Recused : Calhoun

CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAMES:

143-134

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1. CITY OF FRESNO V. JOE GONZALES
2. CITY OF FRESNO V. KURT PAUL HARRIS
3. CITY OF FRESNO V. AIR L.A.
4. CITY OF FRESNO V. VISCOUNT AIR
5. CITY OF FRESNO V. STATES WEST AIRLINES
6. CITY OF FRESNO V. TRISTAR AIRLINES
7. CITY OF FRESNO V. AIR 21 (* NOTE - NOT HELD - LAID OVER ONE WEEK)

(B) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. AMALGAMATED TRANSIT UNION (ATU) LOCAL 1027
2. FRESNO CITY EMPLOYEES' ASSOCIATION (FCEA)
3. FRESNO POLICE OFFICERS' ASSOCIATION (FPOA) MANAGEMENT UNIT
4. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) MANAGEMENT
5. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS (IAFF) NON-MANAGEMENT LOCAL 753
6. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39
7. CITY OF FRESNO PROFESSIONAL EMPLOYEES' ASSOCIATION (CFPEA)
8. CITY OF FRESNO MANAGEMENT EMPLOYEES' ASSOCIATION (CFMEA)
9. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)

The City Council met in closed session, with all members present, in Room 2125 at the hour of 3:15 p.m to consider the above items, *except for Item A-7 which was laid over one week*, and reconvened in regular open session at 3:44 p.m.

CLOSED SESSION ANNOUNCEMENTS:

City Attorney Montoy announced in the matters of A-1 through A-6, Council voted unanimously on all as follows: approved the write-off of the workers compensation benefits paid in the amount of \$36,906.59 in item **A-1**; approved a write-off of property damages costs of \$8,320.32 and workers compensation benefits of \$7,865.26 in item **A-2**; approved a write-off of a claim and forgoing of the filing of a lawsuit for a total write-off loss of \$17,238.50 in item **A-3**; approved the write-off of \$29,134.33 claim in item **A-4**; **(6 - 0)** approved a write-off of \$39,697.13 in item **A-5**; and approved a write-off of \$16,978.09 in item **A-6**.

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:47p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the ____27th____ day of ____April____, 2004.

_____/s/____ ATTEST:_____/s/____

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk

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